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09/15/03 MON 14:33 FAX 315 946 5229 NYS Assemblyman Bob Oaks 002

THE ASSEMBLY CHAIRMAN  
STATE OF NEW YORK Minority Conference  
ALBANY COMMITTEES  
Aging

Governmental Operations

Insurance  
Rules  
Subcommittee on Volunteer firefighters  
ROBERT OAKS  
Assemblyman 128th District  
Cayuga, Oswego and Wayne Counties

Chief Regulations and Procedures Division  
Alcohol and Tobacco Tax and Trade Bureau  
P.O. Box 50221  
Washington, DC 20091-00221

ATTN: TTB Notice No.4  
Dear Sir or Madam

As the member of the New York State Assembly representing the 128th Assembly District, I am writing to express my support for the United States Treasury's Alcohol and Tobacco Tax and Trade Bureau proposed rulemaking for flavored malt beverages (2001R-136P).

I believe the TTB's action is an important clarification of federal alcohol beverage categories established to maintain an orderly US marketplace. The debate surrounding the proposed standard poses important issues for the stability of the retail licensing system and the overall marketplace.

This standard is the most efficient means to address recent concerns by both federal and state officials. If adopted, the standard will maintain an orderly marketplace, meet consumer expectations for consistent products, and help sustain the long-term development of the product category. In addition, those reformulated products will be consistent with state tax, license, and distribution laws allowing wholesalers and retailers to continue to distribute, sell, and market flavored malt beverages as they do today.

Absent a national standard rooted in existing law and regulation, manufacturers, retailers, and wholesalers will face a potential for a patchwork of individual state laws and regulations where the same product may ultimately be sold as a "beer" in one state and as a "distilled spirits" in another.

I am aware that there are concerns regarding the ability of manufacturers to produce PMB products in accordance with the new proposal. It is my understanding that brewers have already demonstrated the expertise and technical ability to brew these products under the new federal standard. Also, the FMB products that look and taste the same will be available to wholesalers and retailers in all states with no interruption and no discernable taste difference for consumers.

ROBERT C. OAKS  
Member of Assembly  
RCO:mlb

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Moreover, equating beer and beverages that derive a majority of their alcohol content from distilled spirits could weaken the important distinctions between beer and products with higher alcohol content.

These distinctions impact state and federal policies regarding the regulation and taxation of beer and other alcohol beverages.

If traditional distinctions disappear. it will only be a matter of time before other producers of alcohol beverages attempt to categorize themselves as beer products.

Beer is not distilled spirits. Beer is not fortified wine. Beer is not a product that has been made through the distillation process. Beer is made through the brewing process. The 0.5% standard will ensure that the integrity of beer remains.

Once again, Danville Distributing Company encourages the TTB to give final approval to the proposed 0.5% standard on FMBs.

Sincerely

John Hamlin  
Operations Manager

bc: NBWA